

AMENDING THE INTERSTATE COMMERCE ACT WITH RESPECT
TO THE AUTHORITY OF THE INTERSTATE COMMERCE COM-
MISSION TO REGULATE THE USE BY MOTOR CARRIERS (UNDER
LEASES, CONTRACTS, OR OTHER ARRANGEMENTS) OF MOTOR
VEHICLES NOT OWNED BY THEM, IN THE FURNISHING OF
TRANSPORTATION OF PROPERTY

JUNE 25, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Com-
merce, submitted the following

R E P O R T

[To accompany S. 898]

The Committee on Interstate and Foreign Commerce, to whom
was referred the bill (S. 898) to amend the Interstate Commerce Act,
with respect to the authority of the Interstate Commerce Commission
to regulate the use by motor carriers (under leases, contracts, or other
arrangements) of motor vehicles not owned by them, in the furnishing
of transportation of property, having considered the same, report
favorably thereon with amendments and recommend that the bill
as amended do pass.

The amendments are as follows:

Page 3, line 11, strike out "(17)," and insert "(17)".

Page 3, lines 12 to 14, strike out "processed or manufactured
perishable commodities or products of the character referred to in
section 203 (b) (6)" and insert—

property of a character embraced within section 203 (b) (6)
or perishable products manufactured from perishable prop-
erty of a character embraced within section 203 (b) (6),

GENERAL STATEMENT

This bill proposes to add to part II of the Interstate Commerce
Act a new provision granting specific authority to the Interstate
Commerce Commission to exercise certain regulatory authority over
the utilization by motor common and contract carriers (under leases,

contracts, or other arrangements) of vehicles not owned by them—a practice generally limited to a one-way or round-trip movement of property in a vehicle leased with driver, and commonly called “trip leasing.”

However, the Commission would be denied the authority to regulate the duration of, or the terms of compensation under, certain trip-leasing arrangements. These are ones which, stated generally, involve the trip leasing of certain classes of vehicles which are primarily used for the hauling of agricultural commodities or certain products thereof.

A detailed explanation of the authority the bill would grant, and the limitations imposed thereon, will be found below under the heading “Explanation of the reported bill.”

The affirmative authority granted to the Interstate Commerce Commission by this legislation will strengthen the Commission's authority to deal with the abuses which have arisen from trip-leasing practices. At the same time, it will assure that motor vehicles which haul agricultural commodities may be leased to authorized motor carriers for a return haul, instead of having such vehicles return empty. The bill is of great importance to agriculture and the public, since it would permit the continuation of a flexible and efficient motor transportation service for the marketing of agricultural products which has been threatened with extinction by the Interstate Commerce Commission. This legislation would also implement the “agricultural exemptions” contained in section 203 (b) of the Interstate Commerce Act.¹

BACKGROUND INFORMATION

Part II of the Interstate Commerce Act provides for regulation of the transportation of persons and property by motor vehicle in interstate commerce.

The two principal classes of carriers regulated are common carriers, which operate under certificates of public convenience and necessity, and contract carriers, which operate under permits. For purposes of this discussion these carriers are referred to as authorized motor carriers.

Ever since the enactment of part II of the Interstate Commerce Act in 1935 it has been a common practice of authorized motor carriers of property to perform the services covered by their certificates or permits through the use (under leasing or similar arrangements) of motor vehicles owned by other persons, and in many cases such arrangements include the services of a driver. Such arrangements have never been considered to be unlawful, and have become an accepted part of the motor transportation system of the country. In fact, during World War II trip leasing was encouraged by our Govern-

¹ The “agricultural exemptions” contained in sec. 203 (b) of the Interstate Commerce Act are as follows:
“(b) Nothing in this part, except the provisions of sec. 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include * * * (4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities and products thereof, or in the transportation of supplies to his farm; or (5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined; or (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation; * * *.”

ment as a means of utilizing to the utmost our trucking industry and highway system as a means of furthering the war effort.

Such arrangements are made under a great variety of circumstances, in some cases covering periods of months or years. The type of arrangement with which this legislation is concerned is that of the "trip leasing" of a motor vehicle, with driver, for a single one-way haul or round trip. Virtually all large motor carriers occasionally trip lease a truck with driver to handle peak loads, and there are some motor carriers, who own a limited number of motor vehicles or none at all, who make very substantial use of vehicles under trip leases.

The leasing practices of authorized motor carriers have, in the opinion of the Interstate Commerce Commission, presented troublesome problems for many years.

In 1940, the Commission's Bureau of Motor Carriers began a study of such leasing practices. The study was suspended during the war, but was resumed thereafter, and in 1947, tentative rules to govern the practices were offered to representatives of the carriers for criticisms and suggestions. The motor carriers were unable to agree as to the action that should be taken to correct abuses in such practices. As a result, the Commission, on January 9, 1948, instituted, on its own motion, a proceeding respecting the lawfulness of the practices of motor common and contract carriers of property in the leasing and interchange of motor vehicles, the proceeding being docketed as Ex parte No. MC-43, Lease and Interchange of Vehicles by Motor Carriers.

Division 5 of the Commission decided on June 26, 1950 (51 M. C. C. 461), that there were widespread violations and evasions of the provisions of part II of the Interstate Commerce Act and the regulations prescribed thereunder, in the practices of motor carriers in augmenting their equipment by leases, contracts, or other arrangements. An examiner had recommended proposed rules, including a rule that leases must be of at least 30 days' duration, and another that compensation be on a basis other than a division of revenues. While Division 5 substantially followed the examiner's recommendations in other respects, it rejected both these provisions. Subsequently the matter was reopened for proceedings before the entire Commission.

The entire Commission made its report on May 8, 1951 (52 M. C. C. 675), in which it adopted rules which were similar to those prescribed by Division 5, with the important exception that the entire Commission included the rules proposed by the examiner, but which Division 5 had rejected, requiring that every lease by an authorized motor carrier for the use of a motor vehicle which it did not own, when such vehicle is to be operated for the authorized carrier by the owner or by an employee of the owner of the vehicle, must be of at least 30 days' duration and that compensation must be on a basis other than a division or percentage of revenues earned with the leased equipment.

The Commission stated, in substance, that its rules were essential to maintain effective control over the operational safety, carrier responsibility, and the economics of the motor-carrier industry.

The Commission's authority to prescribe these rules was challenged in the courts. On January 12, 1953, the United States Supreme Court, in *American Trucking Associations, Inc. v. United States* (344 U. S. 298), upheld the exercise of such authority by the Commission.

The decision of the Court related, of course, solely to the power of the Commission to do what it had done. It therefore did not decide the question of the wisdom or desirability of the Commission's action.

The 30-day lease requirement in the Commission's rules is the provision to which strong objection is made. It is contended, and it seems to be admitted by everyone, that as a practical matter it would abolish trip leasing.

If trip leasing were abolished, truck haulers of agricultural commodities, livestock, and fish, who now obtain return hauls by leasing their trucks to authorized motor carriers, would no longer be able to do so, but would have to return empty. Thus, they would have to charge more for hauling such products, thereby necessitating an increase in the cost of marketing and the spread between farm and consumer prices. The economic loss involved in such wasteful use of equipment, manpower, and gasoline would be reflected in higher prices to consumers, or lower prices to farmers and other producers, or both. It is doubtful, indeed, whether the exempt haulers of agricultural commodities, livestock, and fish would be able to survive under these conditions.

NECESSITY FOR REGULATION OF PRACTICES CONNECTED WITH LEASING

The findings made by the Commission, on the basis of which its order was issued, indicate that regulation is necessary to deal with certain practices, growing out of the use of leased vehicles by authorized motor carriers, which tend in certain respects to prevent the effective carrying out of certain of the provisions of the Interstate Commerce Act.

The Commission found, among other things, that in many instances when authorized carriers trip-lease vehicles owned by others the safety requirements imposed under part II of the act are not observed; that the practice of trip leasing makes it difficult to fix carrier responsibility; and that some of the arrangements made between authorized carriers and the owners of trip-leased vehicles tend to hamper normal rate regulation and otherwise have an adverse effect on the economics and stability of the motor carrier industry.

It is for these reasons that the Commission issued the order of May 8, 1951, which is set forth in appendix A.

Putting aside the controversial 30-day lease provision, the rules in the Commission's order contain a number of provisions (such as the requirement that the lease covering a vehicle must be in writing, that a copy must be carried in the vehicle, that the lease must specify the compensation to be paid, that the lease must provide for complete assumption by the carrier of responsibility for the control and use of the vehicle during the period of the lease, and so on) which are aimed directly at the abuses alleged to grow out of trip leasing.

PRESENT STATUS OF ICC LEASING ORDER

The order of the Interstate Commerce Commission, dated May 8, 1951, was scheduled to take effect on August 1, 1951. However, in response to the strong objections of agricultural interests, certain motor carriers and other parties, and in response to repeated requests of committees of the Congress, the Interstate Commerce Commission has found it necessary to postpone repeatedly the effective date of,

and amend, that portion of the order dealing with the 30-day minimum rule on trip leasing. At the present time, the order, as amended, is scheduled to become effective on July 1, 1956. The presently outstanding order is set forth as appendix B to this report.

As amended, the 30-day minimum leasing rule would not apply to motor vehicles used in the transportation of agricultural commodities (i. e., those vehicles specified in secs. 203 (b) (4a), (5), or (6) of the act). The effect of this modification is to permit authorized carriers to trip lease (without regard to the duration of the lease) a motor vehicle, with driver, when such vehicle is (1) controlled and operated by a farmer, or by a farmer cooperative association or federation, and (2) used for hire in carrying property specified in section 203 (b) (6) of the act, after such vehicle has completed a movement in which it was exempted from regulation by reason of sections 203 (b) (4a), (5), or (6) of the act. However, the lease of such vehicle is restricted to a single loaded movement in any direction, or to a series of movements over reasonably direct routes in the direction of the general area in which the exempt movement originated, or in the direction of the area in which the equipment is based.

As thus modified, the Commission's order would authorize the trip leasing of motor vehicles substantially to the same degree as is provided for in the reported bill, with one important exception. The Commission's order would not permit the trip leasing of the motor vehicle of a private carrier. The reported bill would permit such trip leasing to a limited extent, namely, when the equipment of the private carrier is used regularly in the transportation of property of a character embraced within section 203 (b) (6) of the act or perishable products manufactured from perishable property of a character embraced within that section.

The committee believes that such limited trip leasing by private carriers is essential to the continuation of a flexible and efficient motor transportation service for the marketing of agricultural products and is in the public interest.

Even though the Interstate Commerce Commission has granted an exemption from the 30-day minimum leasing rules to agricultural haulers, this committee is, nevertheless, of the opinion that such exemption should be provided by statute. Several agricultural witnesses have expressed the fear that unless these exemptions are specifically provided for in the law, the Commission may, at some later date, cancel such exemption. The committee shares this view.

EXPLANATION OF THE REPORTED BILL

The bill as reported would amend the Interstate Commerce Act to provide for the regulation of the use by interstate motor common and contract carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them in the furnishing of transportation of property. This is accomplished by adding two new subsections to section 204 of the Interstate Commerce Act, namely, subsection (e) and subsection (f).

Subsection (e) would authorize the Interstate Commerce Commission, subject to the provisions of subsection (f), to prescribe regulations requiring that such leases, contracts, or other arrangements shall (1) be in writing, (2) be signed by the parties thereto, (3) specify

the period during which they shall be in effect, and (4) specify the compensation to be paid by the motor carrier, and requiring that a copy of such lease shall be carried in each vehicle covered thereby. Such subsection also would authorize the Commission to prescribe such other regulations as may be reasonably necessary to assure that motor carriers will have full direction and control of vehicles while they are being used under such leases, and will be fully responsible for the operation thereof in accordance with applicable law and regulation, as if they were the owners of the vehicles. Requirements prescribed by or under the provisions of part II with respect to safety of operation and equipment and inspection are specifically included within the meaning of applicable law and regulation. Under these requirements, the Commission's authority would include, but is not limited to, the promulgation of regulations requiring liability and cargo insurance covering all such equipment.

Subsection 204(f) would serve to exclude from the Commission's powers under subsection (e), as well as any other provision of part II of the act, the authority to regulate the duration of such leases, contracts, or other arrangements for the use of certain specified classes of motor vehicles, with drivers, or the amount of compensation to be paid for such use thereof. The specified classes of motor vehicles are:

First: Any motor vehicle described in any of the following three paragraphs if it is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which the vehicle is based:

(1) A motor vehicle controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities or products thereof, or in the transportation of supplies to his farm (sec. 203(b)(4a));

(2) A motor vehicle controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined (sec. 203(b)(5));

(3) A motor vehicle of a private carrier of property by motor vehicle, as defined by section 203(a)(17), used regularly in the transportation of (A) property of a character embraced within section 203(b)(6) (ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)), or (B) perishable products manufactured from perishable property of a character embraced within section 203(b)(6).

Second: Any motor vehicle which has completed a movement of property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof), and such motor vehicle is next to be used by the motor carrier in a loaded movement in any direction and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which the vehicle is based.

HEARINGS

The committee held public hearings on this bill on May 16, 17, and 21, 1956.

Testimony in support of this legislation was received from Members of Congress, the Department of Agriculture, the American Farm Bureau Federation, the National Grange, the National Council of Farmer Cooperatives, the National Farmers Union, the National Fisheries Institute, the Vegetable Growers Association of America, the United Fresh Fruit and Vegetable Association, the International Apple Association, and others.

REPORTS FROM EXECUTIVE DEPARTMENTS AND AGENCIES

Reports on this bill were received from the Department of Agriculture, the Department of Commerce, the Interstate Commerce Commission, and the Bureau of the Budget. These reports are shown in appendix C to this report.

CONCLUSION

Three years ago this committee reported a bill (H. R. 3203, 83d Cong.) which would have denied to the Interstate Commerce Commission authority to regulate the trip leasing of any motor vehicle. This bill passed the House overwhelmingly, but failed to pass the Senate because of the strong opposition which developed to it.

The bill here being reported is a compromise bill which the agricultural interests favor. The committee believes that there will be no opposition to this bill by the railroads or the regulated motor carrier industry, or the teamsters union which had previously opposed this legislation. The committee believes that this legislation is necessary in the public interest and urges the House to pass the bill as reported.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as passed by the Senate, are shown as follows (new matter is printed in *italics*, existing law in which no change is proposed is shown in roman):

INTERSTATE COMMERCE ACT, AS AMENDED

GENERAL DUTIES AND POWERS OF THE COMMISSION

SEC. 204. (a) It shall be the duty of the Commission—

(1) To regulate common carriers by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

* * * * *

(e) *Subject to the provisions of subsection (f) hereof, the Commission is authorized to prescribe, with respect to the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property—*

(1) *regulations requiring that any such lease, contract, or other arrangement shall be in writing and be signed by the parties thereto,*

shall specify the period during which it is to be in effect, and shall specify the compensation to be paid by the motor carrier, and requiring that during the entire period of any such lease, contract, or other arrangement a copy thereof shall be carried in each motor vehicle covered thereby; and

(2) such other regulations as may be reasonably necessary in order to assure that while motor vehicles are being so used the motor carriers will have full direction and control of such vehicles and will be fully responsible for the operation thereof in accordance with applicable law and regulations, as if they were the owners of such vehicles, including the requirements prescribed by or under the provisions of this part with respect to safety of operation and equipment and inspection thereof, which requirements may include but shall not be limited to promulgation of regulations requiring liability and cargo insurance covering all such equipment.

(f) Nothing in this part shall be construed to authorize the Commission to regulate the duration of any such lease, contract, or other arrangement for the use of any motor vehicle, with driver, or the amount of compensation to be paid for such use—

(1) where the motor vehicle so to be used is that of a farmer or of a cooperative association or a federation of cooperative associations, as specified in section 203 (b) (4a) or (5), or is that of a private carrier of property by motor vehicle as defined in section 203 (a) (17), and is used regularly in the transportation of processed or manufactured perishable commodities or products of the character referred to in section 203 (b) (6) and such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based; or

(2) where the motor vehicle so to be used is one which has completed a movement covered by section 203 (b) (6) and such motor vehicle is next to be used by the motor carrier in a loaded movement in any direction, and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based.

APPENDIXES

APPENDIX A

TITLE 49—TRANSPORTATION

CHAPTER I—INTERSTATE COMMERCE COMMISSION

Subchapter B—Carriers by Motor Vehicle

PART 207—LEASE AND INTERCHANGE OF VEHICLES

Ex Parte No. MC-43

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of May, A. D. 1951.

It appearing, That subsequent to an investigation into the lawfulness of the practices of motor common and contract carriers of property, the Commission, division 5, by order dated June 26, 1950, prescribed rules and regulations governing the practices of such carriers in the performance of transportation with motor vehicles owned by others, the interchange of vehicles between such common carriers, and the lease of vehicles by any such carriers to private motor carriers and shippers (15 F. R. 4339, July 8, 1950);

It further appearing, That by order entered September 5, 1950 (15 F. R. 6125, Sept. 12, 1950), the effectiveness of said regulations was postponed indefinitely;

And it further appearing, That pursuant to order dated September 22, 1950, reopening the proceeding and setting it down for oral argument, such oral argument has been held, and, that after reconsideration by the entire Commission, the Commission, on the date hereof, has made and filed a report on oral argument containing its findings of fact and conclusions thereon, which report is hereby made a part hereof;

It is ordered, That the following rules and regulations are hereby prescribed to become effective on August 1, 1951;

Sec.

- 207.1 Applicability.
- 207.2 Definitions.
- 207.3 Exemptions.
- 207.4 Augmenting equipment.
- 207.5 Interchange of equipment.
- 207.6 Rental of equipment to private carriers and shippers.

AUTHORITY: §§ 207.1 to 207.6 issued under 49 Stat. 546, as amended; 49 U. S. C. 304.

§ 207.1 *Applicability.* The rules and regulations in this part apply to the augmenting of equipment by common and contract car-

riers of property by motor vehicle in interstate or foreign commerce subject to Part II of the Interstate Commerce Act, 49 U. S. C. 301 et seq.; to the interchange of equipment between such common carriers of property by motor vehicle, and to the lease of equipment by common and contract carriers of property by motor vehicle, with or without drivers, to private motor carriers and shippers.

§ 207.2 *Definitions.* (a) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of Sections 206, 207, or 209 of the Interstate Commerce Act, 49 U. S. C. 306, 307, or 309.

(b) *Equipment.* A motor vehicle, straight truck, tractor, semi-trailer, full trailer, combination tractor-and-semitrailer, combination straight truck and full trailer, and any other type of equipment used by authorized carriers in the transportation of property for hire.

(c) *Interchange of equipment.* The physical exchange of equipment between motor common carriers or the receipt by one such carrier of equipment from another such carrier, in furtherance of a through movement of traffic, at a point or points which such carriers are authorized to serve.

(d) *Regular employee.* A person not merely an agent but regularly in exclusive full-time employment.

(e) *Agent.* A person duly authorized to act for and on behalf of an authorized carrier.

(f) *Noncarrier.* A person other than an authorized carrier.

(g) *Owner.* A person to whom title to equipment has been issued, or who has lawful possession of equipment, and has the same registered and licensed in any State or States or the District of Columbia in his or its name.

§ 207.3 *Exemptions.* Other than § 207.4 (c) and (d), relative to inspection and identification of equipment these rules shall not apply—

(a) To equipment leased by one authorized carrier operating over regular routes to another authorized carrier operating over regular routes and operated between points and over routes which both lessor and lessee are authorized to serve, and to equipment leased by one authorized carrier operating over irregular routes to another such carrier and operated between points and within territory which both the lessor and lessee are authorized to serve;

(b) To equipment utilized wholly or in part in the transportation of railway express traffic, or in substituted motor-for-rail transportation of railroad freight moving between points that are railroad stations on railroad billing;

(c) To equipment utilized in transportation performed solely and exclusively within any municipality, contiguous municipalities, or commercial zone, as defined by the Commission;

(d) To equipment utilized by an authorized carrier in transportation performed pursuant to any plan of operation approved by the Commission in a proceeding arising under section 5 of the Interstate Commerce Act, or

(e) To equipment without drivers leased by an authorized carrier from an individual, copartnership or corporation, whose principal business is the leasing of equipment without drivers for compensation.

§ 207.4 *Augmenting equipment.* Other than equipment exchanged between motor common carriers in interchange service as defined in

§ 207.5 of these rules, authorized carriers may perform authorized transportation in or with equipment which they do not own only under the following conditions:

(a) The contract, lease, or other arrangement for the use of such equipment—

(1) Shall be made between the authorized carrier and the owner of the equipment;

(2) Shall be in writing and signed by the parties thereto, or their regular employees or agents duly authorized to act for them in the execution of contracts, leases or other arrangements;

(3) Shall specify the period for which it applies, which shall be not less than 30 days when the equipment is to be operated for the authorized carrier by the owner or employees of the owner; provided, that for six months from the date these rules become effective, equipment specified in section 203 (b) (6) of the Act 49 U. S. C. 303 (b) (6) may be utilized by authorized carriers under contracts, leases, or other arrangements applying for less than 30 days, only under the following condition:

(i) The equipment is being returned over reasonably direct routes from the destinations of shipments of the commodities specified in section 203 (b) (6) of the Act 49 U. S. C. 303 (b) (6) or points intermediate thereto, or the commercial zones of such destinations and intermediate points, as defined by the Commission, to the origins of such shipments, or points intermediate thereto, or the commercial zones of such origins and intermediate points, as defined by the Commission;

(4) Shall provide for the exclusive possession, control, and use of the equipment, and for the complete assumption of responsibility in respect thereto, by the authorized carrier, as follows:

(i) When entered into by parties other than authorized carriers of household goods, as defined by the Commission, for the duration of the said contract, lease or other arrangement, and the equipment shall not be further leased or sublet to any other authorized carrier or noncarrier for such duration;

(ii) When entered into by authorized carriers of household goods, as defined by the Commission, during the period the equipment is operated by or for the authorized carrier, lessee;

(5) Shall specify the compensation to be paid by the lessee for the rental of the leased equipment; provided, however, that such compensation shall not be computed on the basis of any division or percentage of any applicable rate or rates on any commodity or commodities transported in said vehicle or on a division or percentage of any revenue earned by said vehicle during the period for which the lease is effective;

(6) Shall specify the time and date or the circumstance on which the contract, lease, or other arrangement begins, and the time or the circumstance on which it ends. The duration of the contract, lease, or other arrangement shall coincide with the time for the giving of receipts for the equipment, as required by paragraph (b) of this section; and

(7) Shall be executed in triplicate; the original shall be retained by the authorized carrier in whose service the equipment is to be operated, one copy shall be retained by the owner of the equip-

ment, one copy shall be carried on the equipment specified therein during the entire period of the contract, lease, or other arrangement, unless a certificate as provided in paragraph (d) (2) of this section is carried in lieu thereof.

(b) *Receipts.* When possession of the equipment is taken by the authorized carrier or its regular employee or agent duly authorized to act for it, said carrier, employee, or agent shall give to the owner of the equipment, or the owner's employee or agent a receipt specifically identifying the equipment and stating the date and the time of day possession thereof is taken; and when the possession by the authorized carrier ends, it or its employee or agent shall obtain from the owner of the equipment; or its regular employee or agent duly authorized to act for it, a receipt specifically identifying the equipment and stating therein the date and the time of day possession thereof is taken.

(c) *Inspection of equipment.* It shall be the duty of the authorized carrier, before taking possession of equipment, to inspect the same or to have the same inspected by a person who is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of the carrier, in order to insure that said equipment complies with parts 193 and 196 of the Motor Carrier Safety Regulations (Rev.), pertaining to "Parts and Accessories Necessary for Safe Operation," and "Inspection and Maintenance," and if explosives or other dangerous articles are to be transported thereon, further to inspect and check such vehicles or equipment to insure that they or it complies with Part 197 of the said safety regulations pertaining to "Safe Transportation of Explosives." The person making the inspection shall certify the results thereof on a report in the form hereinafter set forth, which report shall be retained and preserved by the authorized carrier, and if his inspection discloses that the equipment does not comply with the requirements of the said safety regulations, possession thereof shall not be taken. In all instances in which the inspection required by this rule is made, the authorized carrier, if an individual, or a member of the copartnership if the authorized carrier is a copartnership, or one of the officials thereof if the authorized carrier is a corporation, shall certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of such authorized carrier:

REPORT OF VEHICLE INSPECTION

Description of vehicle: Make ----- Year----- Model-----
 Serial No. -----
 Type: Tractor ----- Trailer ----- Semitrailer -----
 License plate: No. ----- State -----
 Owner's name -----
 Name of authorized carrier -----

Indicate in the proper column the result of the inspection of each item listed:

Item	Not defective	Defective	Description of defect
Body brakes			
Cooling system			
Drive line			
Emergency equipment			
Engine			
Exhaust			
Fuel system			
Glass			
Horn			
Leaks			
Lights (state which)			
Reflectors			
Speedometer			
Springs			
Steering			
Tires			
Wheels			
Windshield wiper			
Any other items requiring attention			

I hereby certify that on the _____ day of _____, I carefully inspected the equipment described above and that this is a true and correct report of the result of such inspection.

(Signature of person making inspection)

I hereby certify that on the date stated above the person who made the inspection covered by this report was competent and qualified to make such inspection and was duly authorized to make such inspection as a representative of _____

(Name of authorized carrier)

Date _____

(Signature of authorized carrier or copartner
or officer of authorized carrier)

(d) *Identification of equipment.* The authorized carrier acquiring the use of equipment under this rule shall properly and correctly identify such equipment as operated by it when such equipment is operated by or for such carrier, during the period of the lease, contract, or other arrangement, in accordance with the Commission's requirements in Ex Parte No. MC-41; Part 166, Identification of Motor-Carrier Vehicles. If a removable device is used to identify the authorized carrier as the operating carrier, such device shall be on durable material such as wood, plastic, or metal, and bear a serial number in the authorized carrier's own series so as to keep proper record of each of the identification devices in use.

(1) The authorized carrier operating equipment under these rules shall remove any legend, showing it as the operating carrier, displayed on such equipment, and shall remove any removable device showing it as the operating carrier, before relinquishing possession of the equipment.

(2) Unless a copy of the lease, contract, or other arrangement is carried on the equipment, as provided in paragraph (a) (7) of this section, the authorized carrier or its regular employee or agent shall prepare a statement certifying that the equipment is being operated by it, which shall specify the name of the owner, the date of the lease, contract or other arrangement, the period

thereof, any restrictions therein relative to the commodities to be transported, and the location of the premises where the original of the lease, contract or other arrangement is kept by the authorized carrier, which certificate shall be carried with the equipment at all times during the entire period of the lease, contract or other arrangement.

(e) *Driver of equipment.* Before any person other than a regular employee of the authorized carrier is assigned to drive equipment operated under these rules, it shall be the duty of the authorized carrier to make certain that such driver is familiar with, and that his employment as a driver will not result in, violation of any provision of Parts 192, 193, 195, and 196 of the Motor Carrier Safety Regulations (Rev.) pertaining to "Driving of Motor Vehicles," "Parts and Accessories Necessary for Safe Operation," "Hours of Service of Drivers," and "Inspection and Maintenance," and to require such driver to furnish a certificate of physical examination in accordance with Part 191 of the Motor Carrier Safety Regulations (Rev.) pertaining to "Qualifications of Drivers," or, in lieu thereof, a photostatic copy of the original certificate of physical examination, which shall be retained in the authorized carrier's file.

(f) *Record of use of equipment.* The authorized carrier utilizing equipment operated under these rules shall prepare and keep a manifest covering each trip for which the equipment is used in its service, containing the name and address of the owner of such equipment, the make, model, year, serial number, and the State registration number of the equipment, and the name and address of the driver operating the equipment, point of origin, the time and date of departure, the point of final destination, and the authorized carrier's serial number of any identification device affixed to the equipment. During the time that equipment subject to these regulations is operated there shall be carried with the equipment, bills of lading, waybills, freight bills, manifests, or other papers identifying the lading, which shall clearly indicate that the transportation of the property carried is under the responsibility of the authorized carrier, which papers, together with the truck manifest, shall be preserved by the authorized carrier.

§ 207.5 *Interchange of equipment.* Authorized common carriers may by contract, lease, or other arrangement, interchange any equipment defined in § 207.2 of these rules with one or more other such common carriers, or one of such carriers may receive from another such carrier, any of such equipment, in connection with any through movement of traffic, under the following conditions:

(a) *Agreement providing for interchange.* The contract, lease, or other arrangement providing for interchange shall specifically describe the equipment to be interchanged; the specific points of interchange; the use to be made of the equipment and the consideration for such use; and shall be signed by the parties to the contract, lease, or other arrangement, or their regular employees or agents duly authorized to act for them, in the execution of such contracts, leases, or other arrangements.

(b) *Authority of carriers participating in interchange.* The certificates of public convenience and necessity held by the carriers participating in the interchange arrangement must authorize the transportation of the commodities proposed to be transported in the through

movement, and service from and to the point where the physical interchange occurs.

(c) *Driver of interchanged equipment.* Each carrier must assign its own driver to operate the equipment that is proposed to be operated from and to the point or points of interchange and over the route or routes or within the territory authorized in the participating carriers' respective certificates of public convenience and necessity.

(d) *Through bills of lading.* The traffic transported in interchange service must move on through bills of lading issued by the originating carrier, and the rates charged and revenues collected must be accounted for in the same manner as if there had been no interchange of equipment. Charges for the use of the equipment shall be kept separate and distinct from divisions of the joint rates or the proportions thereof accruing to the carriers by the application of local or proportional rates.

(e) *Inspection of equipment.* It shall be the duty of the carrier acquiring the use of equipment in interchange to inspect such equipment, or to have it inspected in the manner provided in § 207.4 (c) of these rules, and equipment which does not meet the requirements of the safety regulations shall not be operated in the respective services of the interchange carriers until the defects have been corrected.

(f) *Identification of equipment.* The authorized carriers operating equipment in interchange service under this section shall carry with each vehicle so operated a copy of the contract, lease, or other arrangement while the equipment is being operated in the interchange service.

§ 207.6 *Rental of equipment to private carriers and shippers.*

(a) *Renting equipment with drivers.* Unless such service is specified in their operating authorities, authorized carriers shall not rent equipment with drivers to noncarriers.

(b) *Rental of equipment without drivers.* Authorized common carriers shall not rent equipment without drivers to noncarriers.

Notice of this order shall be given to the general public by depositing a copy hereof in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

By the Commission.

[SEAL]

W. P. BARTEL, *Secretary.*

APPENDIX B

INTERSTATE COMMERCE COMMISSION

Ex Parte No. MC-43

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

The following are the regulations as amended to this date adopted in the above entitled proceeding.

GEORGE W. LAIRD, *Secretary.*

The following rules and regulations became effective on September 1, 1953; excepting that the effective date as the same applies to authorized carriers of household goods is March 1, 1956; section 207.5 (c),

insofar as such section applies to carriers transporting automobiles, trucks, buses, and related traffic, and carriers transporting perishable products in refrigerated equipment is March 1, 1956; and that part of section 207.4 (a) (3) which provides that equipment leased by authorized carriers shall be for a period of not less than 30 days, and that part of section 207.4 (a) (5) which provides that the compensation for equipment leased by authorized carriers shall not be based on any division or percentage of the rates charged for transportation performed or any revenue earned by said vehicle during the period of the lease is March 1, 1956.

Sec.

207.1 Applicability.

207.2 Definitions.

207.3 Exemptions.

207.4 Augmenting equipment.

207.5 Interchange of equipment.

207.6 Rental of equipment to private carriers and shippers.

§ 207.1 *Applicability.* The rules and regulations in this part apply to the augmenting of equipment by common and contract carriers of property by motor vehicle in interstate or foreign commerce subject to Part II of the Interstate Commerce Act, 49 U. S. C. 301 et. seq.; to the interchange of equipment between such common carriers of property by motor vehicle and to the lease of equipment by common and contract carriers of property by motor vehicle, with or without drivers, to private motor carriers and shippers.

§ 207.2 *Definitions.* (a) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of Sections 206, 207, or 209 of the Interstate Commerce Act, 49 U. S. C. 306, 307, or 309.

(b) *Equipment.* A motor vehicle, straight truck, tractor, semi-trailer, full trailer, combination tractor and trailer, combination straight truck and full trailer, and any other type of equipment used by authorized carriers in the transportation of property for hire.

(c) *Interchange of equipment.* The physical exchange of equipment between motor common carriers or the receipt by one such carrier of equipment from another such carrier, in furtherance of a through movement of traffic, at a point or points which such carriers are authorized to serve.

(d) *Regular employees.* A person not merely an agent but regularly in exclusive full-time employment.

(e) *Agent.* A person duly authorized to act for and on behalf of an authorized carrier.

(f) *Noncarrier.* A person other than an authorized carrier.

(g) *Owner.* A person to whom title to equipment has been issued, or who has lawful possession of equipment, and has the same registered and licensed in any State or States or the District of Columbia in his or its name.

§ 207.3 *Exemptions.* Other than section 207.4 (c) and (d), relative to inspection and identification of equipment, and section 207.6, relative to rental of equipment, these rules shall not apply.

(a) To equipment owned or held under a lease of 30 days or more by an authorized carrier and regularly used by it in the service authorized, and leased by it to another authorized carrier for transportation in the direction of a point which lessor is authorized to serve.

(b) To equipment utilized wholly or in part in the transportation of railway express traffic, or in substituted motor-for-rail transportation of railroad freight moving between points that are railroad stations on railroad billing.

(c) To equipment utilized in transportation performed solely and exclusively within any municipality, contiguous municipalities, or commercial zone, as defined by the Commission.

(d) To equipment utilized by an authorized carrier in transportation performed pursuant to any plan of operation approved by the Commission in a proceeding arising under section 5 of the Interstate Commerce Act; or

(e) To the lease of equipment without drivers by an authorized carrier from an individual, copartnership, or corporation, whose principal business is the leasing of equipment without drivers for compensation.

(f) To equipment other than a power unit, provided that such equipment is not drawn by a power unit leased from the lessor of such equipment.

§ 207.4 *Augmenting equipment.* Other than equipment exchanged between motor common carriers in interchange service as defined in § 207.5 of these rules, authorized carriers may perform authorized transportation in or with equipment which they do not own only under the following conditions:

(a) The contract, lease, or other arrangement for the use of such equipment—

(1) shall be made between the authorized carrier and the owner of the equipment;

(2) shall be in writing and signed by the parties thereto, or their regular employees or agents duly authorized to act for them in the execution of contracts, leases, or other arrangements;

(3) shall specify the period for which it applies, which shall be not less than 30 days when the equipment is to be operated for the authorized carrier by the owner or employee of the owner; excepting—

(i) that equipment specified in section 203 (b) (4a), (5), (6) of the Act (49 U. S. C. 303 (b) (4a), (5), and (6)), may be utilized by authorized carriers under contracts, leases, or other arrangements applying for any period, upon completion of a movement in which such equipment is exempt from regulation by the Commission except as to qualifications and maximum hours of service of employees and safety of operations and standards of equipment, and is next being utilized by the authorized carrier in a loaded movement in any direction or in one of a series of loaded movements over reasonably direct routes in the direction of the general area in which the exempt movement originated, or in the direction of the area in which the equipment is based; provided the authorized carrier receives, prior to the execution of the lease, a statement signed by the owner of the equipment, or someone duly authorized to sign for the owner, authorizing the driver to lease the equipment for the return movement or movements, and a statement signed by the driver specifying the origin, destination, and the time of the beginning and ending of the last exempt movement.

(4) shall provide for the exclusive possession, control and use of the equipment, and for the complete assumption of responsibility in respect thereto, by the authorized carrier, as follows:

(i) For the duration of said contract, lease or other arrangement except the provision may be made therein for considering the lessee as the owner for the purpose of subleasing under these rules to other authorized carriers during such duration;

(ii) When entered into by authorized carriers of household goods, for the transportation of household goods, as defined by the Commission, during the period the equipment is operated by or for the authorized carrier, lessee;

(5) shall specify the compensation to be paid by the lessee for the rental of the leased equipment provided, however, that such compensation shall not be computed on the basis of any division or percentage of any applicable rate or rates on any commodity or commodities transported in said vehicle or on a division or percentage of any revenue earned by said vehicle during the period for which the lease is effective.

(6) Shall specify the time and date or the circumstances on which the contract, lease, or other arrangement begins, and the time or the circumstance on which it ends. The duration of the contract, lease, or other arrangement shall coincide with the time for the giving of receipts for the equipment, as required by paragraph (b) of this section; and

(7) Shall be executed in triplicate; the original shall be retained by the authorized carrier in whose service the equipment is to be operated, one copy shall be retained by the owner of the equipment, one copy shall be carried on the equipment specified therein during the entire period of the contract, lease, or other arrangement, unless a certificate as provided in paragraph (d) (2) of this section is carried in lieu thereof.

(b) *Receipts.* When possession of the equipment is taken by the authorized carrier or its regular employee or agent duly authorized to act for it, said carrier, employee or agent shall give to the owner of the equipment, or the owner's employee or agent, a receipt specifically identifying the equipment and stating the date and the time of day possession thereof is taken; and when the possession by the authorized carrier ends, it or its employee or agent shall obtain from the owner of the equipment, or its regular employee or agent duly authorized to act for it, a receipt specifically identifying the equipment and stating therein the date and the time of day possession thereof is taken.

(c) *Inspection of equipment.* It shall be the duty of the authorized carrier, before taking possession of equipment, to inspect the same or to have the same inspected by a person who is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of the carrier, in order to insure that the said equipment complies with parts 193 and 196 of the Motor Carrier Safety Regulations (Rev.), pertaining to "Parts and Accessories Necessary for Safe Operation," and "Inspection and Maintenance," and if explosives or other dangerous articles are to be transported thereon, further to inspect and check such vehicles or equipment to insure that they or it complies with Part 197 of the said safety regulations pertaining to "Safe Transportation of Explosives."

The person making the inspection shall certify the results thereof on a report in the form hereinafter set forth, which report shall be retained and preserved by the authorized carrier, and if his inspection discloses that the equipment does not comply with the requirements of the said safety regulations, possession thereof shall not be taken. In all instances in which the inspection required by this rule is made, the authorized carrier, if an individual, or a member of the copartnership if the authorized carrier is a copartnership, or one of the officials thereof if the authorized carrier is a corporation, shall certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of such authorized carrier. When equipment other than a power unit is leased, a form of report applicable to such equipment may be used.

(d) *Identification of equipment.* The authorized carrier acquiring the use of equipment under this rule shall properly and correctly identify such carrier, during the period of the lease, contract, or other arrangement in accordance with the Commission's requirements in Ex Parte No. MC-41; Part 166, Identification of Motor-Carrier Vehicles. If a removable device is used to identify the authorized carrier as the operating carrier, such device shall be on durable material such as wood, plastic, or metal, and bear a serial number in the authorized carrier's own series so as to keep proper record of each of the identification devices in use.

(1) The authorized carrier operating equipment under these rules shall remove any legend showing it as the operating carrier, displayed on such equipment, and shall remove any removable device showing it as the operating carrier, before relinquishing possession of the equipment.

(2) Unless a copy of the lease, contract, or other arrangement is carried on the equipment, as provided in paragraph (a) (7) of this section, the authorized carrier or its regular employee or agent shall prepare a statement certifying that the equipment is being operated by it, which shall specify the name of the owner, the date of the lease, contract or other arrangement, the period thereof, any restrictions therein relative to the commodities to be transported, and the location of the premises where the original of the lease, contract or other arrangement is kept by the authorized carrier, which certificate shall be carried with the equipment at all times during the entire period of the lease, contract, or other arrangement.

(e) *Driver of equipment.* Before any person other than a regular employee of the authorized carrier is assigned to drive equipment operated under these rules, it shall be the duty of the authorized carrier to make certain that such driver is familiar with, and that his employment as a driver will not result in, violation of any provision of Parts 192, 193, 195, and 196 of the Motor Carrier Safety Regulations (Rev.) pertaining to "Driving of Motor Vehicles," "Parts and Accessories Necessary for Safe Operation," "Hours of Service of Drivers," and "Inspection and Maintenance," and to require such driver to furnish a certificate of physical examination in accordance with Part 191 of the Motor Carrier Safety Regulations (Rev.) pertaining to "Qualifications of Drivers," or, in lieu thereof, a photostatic copy

of the original certificate of physical examination, which shall be retained in the authorized carrier's file.

(f) *Record of use of equipment.* The authorized carrier utilizing equipment operated under these rules shall prepare and keep a manifest covering each trip for which the equipment is used in its service, containing the name and address of the owner of such equipment, the make, model, year, serial number, and the State registration number of the equipment, and the name and address of the driver operating the equipment, point of origin, the time and date of departure, the point of final destination, and the authorized carrier's serial number of any identification device affixed to the equipment. During the time that equipment subject to these regulations is operated there shall be carried with the equipment, bills of lading, waybills, freight bills, manifests, or other papers identifying the lading, which shall clearly indicate that the transportation of the property carried is under the responsibility of the authorized carrier, which papers, together with the truck manifest, shall be preserved by the authorized carrier.

§ 207.5 *Interchange of equipment.* Authorized common carriers may by contract, lease, or other arrangement, interchange any equipment defined in § 207.2 of these rules with one or more other such common carriers, or one of such carriers may receive from another such carrier, any of such equipment, in connection with any through movement of traffic, under the following conditions:

(a) *Agreement providing for interchange.* The contract, lease or other arrangement providing for interchange shall specifically describe the equipment to be interchanged; the specific points of interchange; the use to be made of the equipment and the consideration for such use; and shall be signed by the parties to the contract, lease, or other arrangement, or their regular employees or agents duly authorized to act for them, in the execution of such contracts, leases, or other arrangements.

(b) *Authority of carriers participating in interchange.* The certificates of public convenience and necessity held by the carriers participating in the interchange arrangement must authorize the transportation of the commodities proposed to be transported in the through movement, and service from and to the point where the physical interchange occurs.

(c) *Driver of interchanged equipment.* Except as provided in (1) hereof, each carrier must assign its own driver to operate the equipment that is proposed to be operated from and to the point or points of interchange and over the routes or within the territory authorized in the participating carriers' respective certificates of public convenience and necessity.

(1) Two or more common carriers, when engaged in the transportation of an article which, because of its size, weight, or shape, must be transported on a vehicle of special or unusual construction, may when transporting such article on such special or unusual vehicle, perform a through interchange service with such vehicle without a change of drivers at the point of interchange; and that, until March 1, 1956, such drivers may make the inspection required by § 207.5 (e) of these rules on behalf of any carrier party to such through movement.

(d) *Through bills of lading.* The traffic transported in interchange service must move on through bills of lading issued by the originating

carrier, and the rates charged and revenues collected must be accounted for in the same manner as if there had been no interchange of equipment. Charges for the use of the equipment shall be kept separate and distinct from divisions of the joint rates or the proportions thereof accruing to the carriers by the application of local or proportional rates.

(e) *Inspection of equipment.* It shall be the duty of the carrier acquiring the use of equipment in interchange to inspect such equipment, or to have it inspected in the manner provided in § 207.4 (c) of these rules, and equipment which does not meet the requirements of the safety regulations shall not be operated in the respective services of the interchange carriers until the defects have been corrected.

(f) *Identification of equipment.* The authorized carriers operating equipment in interchange service under this section shall carry with each vehicle so operated a copy of the contract, lease, or other arrangement while the equipment is being operated in the interchange service. Authorized carriers operating power units in interchange service shall identify such equipment in accordance with the Commission's requirements in Ex Parte No. MC-41, Part 166, Identification of Motor Carrier Vehicles.

(g) *Through movement involving more than two carriers.* For the purpose of this rule, a lessee of equipment on a through movement involving more than two carriers, shall be considered the owner of the equipment for the purpose of leasing the equipment for movement to destination or for return to the originating carrier.

§ 207.6 *Rental of equipment to private carriers and shippers.*

(a) *Renting equipment with drivers.* Unless such service is specified in their operating authorities, authorized carriers shall not rent equipment with drivers to noncarriers.

(b) *Rental of equipment without drivers.* Authorized common carriers shall not rent equipment without drivers to noncarriers.

REPORT OF VEHICLE INSPECTION

Description of vehicle: Make _____ Year _____
 Model _____ Serial No. _____
 Type: Tractor _____ Trailer _____ Semitrailer _____
 License plate: No. _____ State _____
 Owner's name _____
 Name of authorized carrier _____

Indicate in the proper column the result of the inspection of each item listed.

Item	Not defective	Defective	Description of defect
Body.....			
Brakes.....			
Cooling system.....			
Drive line.....			
Emergency equipment.....			
Engine.....			
Exhaust.....			
Fuel system.....			
Glass.....			
Horn.....			
Leaks.....			
Lights (state which).....			
Reflectors.....			
Speedometer.....			
Springs.....			
Steering.....			
Tires.....			
Wheels.....			
Windshield wiper.....			
Any other items requiring attention.....			

I hereby certify that on the day of I carefully inspected the equipment described above and that this is a true and correct report of the result of such inspection.

(Signature of person making inspection)

I hereby certify that on the date stated above the person who made the inspection covered by this report was competent and qualified to make such inspection and was duly authorized to make such inspection as a representative of

(Name of authorized carrier)

Date: -----

(Signature of authorized carrier or co-partner or officer of authorized carrier)

TITLE 49—TRANSPORTATION

CHAPTER I—INTERSTATE COMMERCE COMMISSION

Subchapter B—Carriers by Motor Vehicle

PART 207—LEASE AND INTERCHANGE OF VEHICLES

Ex Parte No. MC-43

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 23d day of January A. D. 1956:

It appearing, That by orders entered herein on February 2, 1955, and November 15, 1955, certain sections, or parts of certain sections of the rules prescribed in the above-entitled proceeding by order of May 8, 1951, as subsequently amended, or the applicability of the rules, or sections thereof, to specified groups of authorized carriers, were to become effective on March 1, 1956;

It further appearing, That it is desirable in the public interest to further defer the effective date from March 1, 1956, to July 1, 1956:

It is ordered, That the order entered in this proceeding on May 8, 1951, as subsequently modified, be, and it is hereby, further modified so as to make effective July 1, 1956, instead of March 1, 1956—

(1) the provision of section 207.4 (a) (3) which requires that any contract, lease, or other arrangement for the use of equipment shall specify a period "which shall not be less than 30 days";

(2) that part of section 207.4 (a) (5) reading: "* * * *Provided, however*, That such compensation shall not be computed on the basis of any division or percentage of any applicable rate or rates on any commodity or commodities transported in said vehicle or on a division or percentage of any revenue earned by said vehicle during the period for which the lease is effective."

(3) section 207.5 (c) which requires that drivers be changed at the point of interchange of vehicles on joint-line movements, only insofar as the same applies to authorized carriers by motor vehicle of passenger automobiles, commercial trucks, busses, and related vehicle traffic, and of perishable commodities in refrigerated equipment;

(4) that portion of section 207.5 (c) (1) immediately following the semicolon therein, relating to drivers of special equipment used to transport articles or commodities, which, because of their size, weight, or shape, require the use of special equipment, and reading "and that, until March 1, 1956, such drivers may make the inspection required by section 207.5 (e) of these rules and regulations on behalf of any carrier party to the through movement"; and

(5) all of the rules insofar as they apply to authorized carriers of household goods as defined by the Commission.

By the Commission.

[SEAL]

HAROLD D. MCCOY, *Secretary*.

APPENDIX C

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 11, 1956.

HON. J. PERCY PRIEST,

*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. PRIEST: Under date of April 2, 1956, you submitted to the Department for comment a bill, S. 898, which passed the Senate March 28, 1956, and is now in the House of Representatives for consideration. This bill amends the Interstate Commerce Act with respect to the authority of the Interstate Commerce Commission to regulate the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property.

The Department supported the original bill, S. 898, because, while authorizing the Commission to prescribe certain rules and regulations with respect to the leasing of motor vehicles, it also provided that the Commission should not regulate the duration of any such lease,

contract or other arrangement for the use of such motor vehicle or the amount of compensation to be paid therefor.

We supported the original bill because it would permit farmers' trucks, cooperatives' trucks, and those trucks exempt from regulations under section 203 (b) (6) of the Interstate Commerce Act to be leased by the operator to an authorized carrier for movement back in the direction of the operator's base. This flexibility of movement by the operators of motortrucks who supply the greatly needed equipment during harvest seasons is conducive to the expeditious, efficient, and economical distribution of agricultural and food products by minimizing wasteful empty return movement.

We believe S. 898, as passed by the Senate, was intended to accomplish this objective. However, subparagraph (1) of paragraph (f) is subject to varying interpretations and we believe clarification is desirable. For example, the word "regularly" on line 11, page 3, might well be interpreted to imply regularity in the sense of scheduled movement, whereas we believe the concept "in the regular course of business" to be more in keeping with the intent of the act.

We also have some concern as to whether the qualifying language on line 11, page 3, after "(a) (17)," is intended to refer to farmer-owned and cooperatively owned vehicles as well as private carriers. The removal of the comma following "(a) (17)" would be desirable to make it clear that the qualifying language refers only to private carriers.

The use of the term "processed" in line 12, page 3, suggests the possibility that commodities which have undergone some processing, such as the removal of cottonseed from cotton, may not be intended to be included in the phrase "products of the character referred to in section 203 (b) (6)." Also the phrase "processed or manufactured perishable commodities" in line 12 may be too restrictive. For example, this may not permit trip-leasing following a movement of canned food and perhaps other food products by a private carrier. If thus restrictively interpreted, this language may limit the economies desirable in marketing such commodities.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

THE SECRETARY OF COMMERCE,
Washington 25, D. C., May 17, 1956.

HON. J. PERCY PRIEST,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in reply to your request of April 2, 1956, for the views of this Department with respect to S. 898, an act to amend the Interstate Commerce Act, with respect to the authority of the Interstate Commerce Commission to regulate the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property.

Subsection 204 (e), which would be added by the act, authorizes the Commission, subject to the provisions of subsection (f), to pre-

scribe regulations requiring that leases, contracts, or other arrangements shall (1) be in writing, (2) be signed by the parties thereto, (3) specify the period during which they shall be in effect, and (4) specify the compensation to be paid by the motor carrier, and requiring that a copy of such lease shall be carried in each vehicle covered thereby. The Commission is authorized also to prescribe such other regulations as may be reasonably necessary to assure that motor carriers will have full direction and control of vehicles while they are being used under such leases, and will be fully responsible for the operation thereof in accordance with applicable law and regulation, as if they were the owners of the vehicles. Requirements prescribed by or under the provisions of part II with respect to safety of operation and equipment and inspection are specifically included within the meaning of applicable law and regulation. Under these requirements, the Commission's authority includes but is not limited to the promulgation of regulations requiring liability and cargo insurance covering all such equipment.

Subsection 204 (f) serves to exclude from the Commission's powers under part II the authority to regulate the duration of such leases, contracts, or other arrangements for the use of certain specified classes of motor vehicles, with drivers, or the amount of compensation to be paid for such use thereof. The specified classes of motor vehicles are—

(1) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities or products thereof or in the transportation of supplies to his farm sec. (203 (b) (4a));

(2) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined (sec. 203 (b) (5));

(3) motor vehicles of private carriers of property by motor vehicle, as defined by section 203 (a) (17) used regularly in the transportation of processed or manufactured perishable commodities or commodities referred to in section 203 (b) (6) [ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)];

where any of the vehicles described in (1), (2), and (3) above are to be used in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which it is based; and

(4) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation, where such vehicle is next to be used in a loaded movement in any direction, and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which the vehicle is based.

As introduced, S. 898 would have denied to the Commission authority to regulate the duration of any such lease, or the amount of compensation to be paid therefor. As passed by the Senate, S. 898 would deny to the Commission such authority only with respect to certain operations of specified classes of motor vehicles engaged in transporting agricultural commodities and products derived therefrom.

The Department of Commerce in a letter dated June 16, 1955, to the chairman, Senate Committee on Interstate and Foreign Commerce, recommended against the enactment of S. 898 as introduced. The reasons stated by the Department were that (1) the grant of authority to control leasing practices was in fact not a grant at all, for the Supreme Court has held that the authority is already available, and (2) the prohibitions against the prescription of the duration of leases and the amount of compensation would unduly impair the Commission's discretion in dealing with the serious problems that exist as a result of the widespread trip leasing.

As S. 898 was reported to the Senate by the Committee on Interstate and Foreign Commerce, it would have prevented the Commission from prescribing regulations against trip leasing by all private carriers. However, it was amended on the floor of the Senate so as to bar such regulations only in the case of a motor vehicle used regularly by a private carrier for transporting processed or manufactured perishable commodities or section 203 (b) (6) commodities. This action was in accord with the general philosophy of S. 898 to provide for the special transportation needs of farmers and agricultural interests. It also recognized that uncontrolled trip leasing by private carriers poses a serious threat to the common carrier industry.

Although this Department still believes that this legislation is not required to assure proper regulation of leasing arrangements, with appropriate relief to agricultural transportation, and that general authority for the Commission to regulate leasing is preferable, it would not interpose any objection to enactment of S. 898, if the provision relating to private carriers were deleted. This provision is inconsistent with the purpose expressed in H. R. 6141 and H. R. 6142, implementing recommendations of the President's Advisory Committee Report on Transport Policy and Organization, to strengthen the common carrier industry. However, if the Congress believes that the benefits to agricultural marketing resulting from the provision outweigh possible adverse effects to the common carrier industry, the language in the provision reading "processed or manufactured perishable commodities" should be clarified so as to remove any doubts concerning the character of the agricultural transportation intended to be covered thereby.

The Bureau of the Budget advised us there is no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington 25, May 10, 1956;

Hon. J. PERCY PRIEST,

*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington 25, D. C.*

DEAR CHAIRMAN PRIEST: Your letter of April 2, 1956, addressed to the Chairman of the Commission and requesting a report and comments on S. 898, to amend the Interstate Commerce Act, with respect to the authority of the Interstate Commerce Commission to regulate the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property, has been given careful consideration by the Commission, and I am authorized to submit the following comments:

As originally introduced in the Senate, S. 898 was identical to H. R. 6873, on which the Commission reported to you by letter dated July 20, 1955. In that letter we discussed at some length the reasons which impelled the Commission to adopt rules and regulations respecting the lease and interchange practices of authorized motor carriers subject to our jurisdiction. We pointed out that the bill would specifically deprive the Commission of authority to regulate the duration of, and the compensation to be paid under, any lease, contract, or other arrangement for the use of any motor vehicle by a motor carrier, the exercise of which authority was upheld by the Supreme Court on January 12, 1953, in *American Trucking Associations, Inc. v. United States* (344 U. S. 298).

As passed by the Senate on March 28, 1956, S. 898 would amend section 204 of the Interstate Commerce Act by adding at the end thereof a new subsection (e) which would specifically authorize the Commission to prescribe, with respect to the use by motor carriers of motor vehicles not owned by them, regulations requiring that any lease, contract, or other arrangement for the use of such vehicles shall be in writing and signed by the parties thereto, shall specify the period during which it is to be in effect and the compensation to be paid by the motor carrier, and that a copy thereof shall be carried in each motor vehicle covered thereby during the entire period of any such lease, contract, or other arrangement. The Commission would also be specifically authorized to prescribe such other regulations as may be reasonably necessary to assure that the authorized carriers will have full direction and control of such motor vehicles while being so used, and that they will be fully responsible for the operation thereof in accordance with applicable law and regulations, including the requirements prescribed by the Commission with respect to safety of operations and equipment. The Commission would be specifically prohibited, however, from regulating the duration of the lease of such motor vehicle, with driver, or the amount of compensation, to be paid for such use, (1) where the truck is that of a farmer, an agricultural cooperative, or an association of agricultural cooperatives, or is that of a "private carrier of property by motor vehicle as defined in section 203 (a) (17), and is used regularly in the transportation of processed or manufactured perishable commodities or products of the character referred to in section 203 (b) (6)" and is to be used by a regulated motor carrier for the transportation of nonexempt freight in the general direction of the general area in which such motor vehicle is based;

or (2) where the motor vehicle has completed a movement covered by section 203 (b) (6) and is next to be used in a loaded movement in any direction and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based.

As stated in our letter of July 20, 1955, commenting on H. R. 6873, the affirmative grants of authority on the proposed measure are actually no grants of authority at all, since the Supreme Court has held that the Commission already has such power. Such specific grants of authority may, therefore, even hinder our efforts to cope with this problem in the future if the courts should interpret the specific enumerations of the matters which we may regulate as a congressional intent that we have no authority to deal with the problem in any other way.

The present leasing regulations adopted by the Commission which are now scheduled to become effective on July 1, 1956, prohibit a motor carrier from leasing a truck, with driver, for less than 30 days, except that equipment specified in section 203 (b) (4a), (5), or (6) may be leased, upon completion of a movement in which such equipment is exempted from regulation by such sections, for a shorter period for a single movement in any direction or for a series of movements over reasonably direct routes in the direction of the general area in which the exempt movement originated, or in the direction of the area in which the equipment is based.

S. 898, as passed by the Senate, differs from the regulations adopted by the Commission in that it would prohibit the Commission from fixing the minimum term of a lease of equipment of a private carrier of property as defined in section 203 (a) (17) which is used regularly in the transportation of processed or manufactured perishable commodities or products of the character referred to in section 203 (b) (6) of the act. This would permit the trip leasing of trucks of private carriers of certain manufactured commodities, but would not place any restriction upon the Commission's authority to prohibit the trip leasing of equipment of private carriers of unmanufactured exempt commodities. In view of the discussion on the Senate floor when this provision was under consideration, it would not appear that this was intended. It was intended, apparently, to permit the trip leasing of trucks of private carriers of exempt commodities and of trucks of private carriers of perishable processed or manufactured commodities of the nature referred to in section 203 (b) (6) of the act. This intent, we believe, would be more definitely stated if proposed section (f) (1), page 3 of the bill, were amended to read as follows (suggested new language in italics; language to be deleted shown in brackets):

(1) Where the motor vehicle so to be used is that of a farmer or of a cooperative association or a federation of cooperative associations, as specified in section 203 (b) (4a) or (5), or is that of a private carrier of property by motor vehicle as defined in section 203 (a) (17), and is used regularly in the transportation of *commodities of the character referred to in section 203 (b) (6), or of perishable processed or manufactured products of such character* [processed or manufactured perishable commodities or products of the character referred to in section 203 (b) (6)] and such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty,

in the general direction of the general area in which such motor vehicle is based; or

The views stated in our letter of July 20, 1955, commenting on H. R. 6873, still represent the views of the Commission respecting the placing of statutory restrictions upon its authority to prescribe rules and regulations governing the duration of, and the compensation to be paid under, any lease, contract, or other arrangement for the use by an authorized carrier of any motor vehicle, with driver, not owned by it. S. 898, as passed by the Senate, would enlarge the scope of competition between private and common carriers by encouraging greater utilization of private transportation by shippers. This is contrary to the proposals of the Cabinet Committee in this respect. It is a basic policy question for Congress to determine.

Respectfully submitted.

ANTHONY ARPAIA, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 29, 1956.

Hon. J. PERCY PRIEST,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of April 2, 1956, requesting the views of this Office with respect to S. 898, a bill to amend the Interstate Commerce Act, with respect to the authority of the Interstate Commerce Commission to regulate the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property.

The Secretary of Commerce and the Chairman of the Interstate Commerce Commission in the reports they are making to your committee on this bill raise a number of problems. Of particular concern is the exemption from trip-leasing regulations for the private carrier of property by motor vehicle as defined in section 203 (a) (17) of the Interstate Commerce Act and the effect such an exemption would have on the motor common carrier. However, both agencies recommend, if your committee finds that S. 898 is desirable, that the language on page 3, lines 11 to 13, which qualifies the exemption for private carriers be clarified.

The Bureau of the Budget believes that your committee will wish to give serious consideration to the problems presented in these reports. In any event, this Office believes that clarifying language along the lines suggested by the Chairman of the Interstate Commerce Commission in his report would be desirable.

Sincerely yours,

A. R. JONES, *Deputy Director.*

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